

IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
JEFFERSON RIVER BASIN (41G)  
PRELIMINARY DECREE

\* \* \* \* \*

CLAIMANTS: Christopher Fell; Harriet A. Fell; Christopher A.  
Leonti; Michelle LB Leonti; Barbara E. Nevin;  
Robert C. Nevin

**CASE 41G-0558-R-2023**  
41G 93966-00

OBJECTOR: Michelle LB Leonti

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

**MASTER'S REPORT**

**FINDINGS OF FACT**

1. Claim 41G 93966-00 appeared in the Basin 41G Preliminary Decree issued February 15, 2018. It received an objection from co-claimant Michelle LB Leonti.

2. Claim 41G 93966-00 is a domestic claim. It has a purpose information remark stating that the water right is used among three residences for domestic purposes and for commercial purposes at the Cardwell Store and the Cardwell Post Office.

3. Leonti objected to the claim stating the “Cardwell Store was never at the owners’ properties and does not use water at this location.”

4. The Order Consolidating issued January 13, 2023 set a filing deadline for the other owners to comment on the objection. The order stated that if nothing was filed by the deadline, the court would conclude that the other co-claimants agree with Michelle Leonti’s objection and the Cardwell Store would be removed from the purpose information remark. Nothing was filed by the deadline. Michelle LB Leonti’s objection is deemed well taken and reference to the Cardwell Store will be removed from the purpose information remark.

5. Claim 41G 93966-00 received the following DNRC notice issue remark:

POINT OF DIVERSION AND PLACE OF USE WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

The issue remark has served its purpose of providing notice and should be removed from the claim.

### CONCLUSIONS OF LAW

1. A properly filed claim of an existing right or an amended claim of existing right is prima facie proof of its content. § 85-2-227, MCA.

2. All issue remarks to claims that are not resolved through the filing of an objection must be resolved pursuant to § 85-2-248, MCA. § 85-2-248(2), MCA. However, the requirement to resolve issue remarks does not eliminate the prima facie status granted to water rights, nor does it change the burden of proof required to modify or invalidate a claim. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015. The issue remark appearing on claim 41G 93966-00 does not overcome the prima facie status of the claim and should be removed.

3. If a claimant fails to comply with an order issued by the water court, the water court may issue such orders of sanction with regard thereto as are just. Sanctions applied against claimants may include termination of the claim; or modification of the claim to conform with data provided by the department, information obtained by the court, or information included in an objection. No one responded to the court's order setting a filing deadline for comment on the Leonti objection. The claim should be modified to remove the reference to the Cardwell Store in the purpose information remark.

#### RECOMMENDATIONS

1. Claim 41G 93966-00 should be modified as described above.
2. The issue remark should be removed from claim 41G 93966-00.

A Post Decree Abstract of Water Right Claim is served with the Report to confirm that the changes have been made in the state's centralized database.

#### **ELECTRONICALLY SIGNED AND DATED BELOW.**

##### **Service via USPS Mail**

Christopher Fell  
PO Box 4807  
Butte, MT 59702

Harriet A. Fell  
54 MT Hwy 359  
Cardwell, MT 59721-9604

Christopher A Leonti  
Michelle LB Leonti  
281 McKeown Ln  
Cardwell, MT 59721-9611

Barbara E Nevin  
Robert C Nevin  
PO Box 730  
Whitehall, MT 59759

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
JEFFERSON RIVER  
BASIN 41G**

**Water Right Number:** 41G 93966-00 STATEMENT OF CLAIM

**Version:** 3 -- POST DECREE

**Status:** ACTIVE

**Owners:**

BARBARA E NEVIN  
PO BOX 730  
WHITEHALL, MT 59759

HARRIET A FELL  
54 MT HWY 359  
CARDWELL, MT 59721 9604

CHRISTOPHER A LEONTI  
281 MCKEOWN LN  
CARDWELL, MT 59721 9611

MICHELLE LB LEONTI  
281 MCKEOWN LN  
CARDWELL, MT 59721 9611

CHRISTOPHER FELL  
PO BOX 4807  
BUTTE, MT 59702 4807

**Priority Date:** NOVEMBER 15, 1957

**Type of Historical Right:** USE

**Purpose (use):** DOMESTIC

THIS WATER RIGHT IS USED AMONG THREE RESIDENCES FOR DOMESTIC PURPOSES AND IS ALSO USED FOR COMMERCIAL PURPOSES AT THE CARDWELL POST OFFICE.

**Flow Rate:** 100.00 GPM

**Volume:** 3.00 AC-FT

**Households:** 3

**Source Name:** GROUNDWATER

**Source Type:** GROUNDWATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESESE	3	1N	3W	JEFFERSON

**Period of Diversion:** JANUARY 1 TO DECEMBER 31

**Diversion Means:** WELL

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SESESE	3	1N	3W	JEFFERSON